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**OFFICE OF PETITIONS**

In re Application of

Hironori Endo

Application No. 10/612,394

Filed: February 4, 2004

Attorney Docket No. Q76423

Title: LIQUID EJECTION CONTROL  
METHOD AND LIQUID EJECTION  
APPARATUS

DECISION ON PETITION

This is a decision on the “Response to notice of incomplete nonprovisional application filed under 37 C.F.R. §1.53(b),” which is properly treated as a petition under §1.53(e)(2), filed on February 4, 2004, requesting that the application be accorded a filing date of July 3, 2003.

The application was deposited on July 3, 2003. However, on December 4, 2003, the Office of Initial Patent Examination (OIPE) mailed a “Notice of Incomplete Nonprovisional Application – Filing Date *not Granted*” (notice), stating that the application was deposited without at least one claim, and that a filing date would be accorded upon the deposit of a claim. The notice also set forth that the basic filing fee, an oath or declaration, an English translation, substitute drawings, and the surcharge associated with the filing of a specification in a language other than English were required.

In response, on February 4, 2004, applicants filed the present petition. The petition is further accompanied by a copy of an English translation, a statement that the translation is accurate, the basic filing fee, a declaration, substitute drawings, and the surcharge associated with the late filing of an oath or declaration. Applicants allege that nineteen (19) claims were present of filing, and request that the application, including nineteen (19) claims be accorded a filing date of July 3, 2003.

The surcharge associated with the filing of a specification in a language other than English has been charged to Petitioner’s Deposit Account, as authorized in the petition.

Petitioner has further included a postcard receipt which evinces that "# Pgs. Spec/Abst: 45/1 # Claims 19 \*(Japanese Language)" was received in the Patent Office of July 3, 2003.

37 C.F.R. §1.52(a)(b)(1)(ii) sets forth that patent applications must be in the English language or be accompanied by a translation of the application and a translation of any corrections or amendments into the English language together with a statement that the translation is accurate.

Since the application was filed in a language other than the English language, and was accompanied by neither a translation nor the requisite statement of accuracy, the application was not entitled to a filing date until these required items were supplied.

As such, the petition under 37 C.F.R. §1.53(e)(2) is **DISMISSED**.

The application file is being returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of February 4, 2004, the date on which both the translation and the statement that the translation is accurate were supplied. OIPE will use the original application papers filed on July 3, 2003, as well as the translation submitted on February 4, 2004.

Any inquiries related to this decision should be directed to Attorney Paul Shanoski at (703) 305-0011.



Jay Lucas  
Interim Supervisory Petitions Examiner  
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